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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,354	01/27/2004	Barry Eldeen	6810-21828	2361
7590 12/19/2006 Gary L. Huusko Severson Sheldon Dougherty & Molenda, PA Suite 600 7300 West 147th Street Apple Valley, MN 55124			EXAMINER DREIDAME, HUNTER M	
			ART UNIT	PAPER NUMBER
			3635	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/19/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/765,354

Applicant(s)

ELDEEN, BARRY

Examiner

Hunter M. Dreidame

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/09/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) 7 - 10, 17 - 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) ~~11 - 15~~ is/are allowed.
- 6) ☒ Claim(s) 6 and 16 is/are rejected.
- 7) ☒ Claim(s) 1 - 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Status***

Applicant has elected Species II, which corresponds to Figs. 4, 5, and 6. Applicant cites claims 1 – 6, 10, 11 – 16, and 20 as reading on the species. The examiner disagrees in that claims 10 and 20 disclose a cylindrical bar of length two feet six inches to three feet, which reads on non-elected Species I. Therefore, claims 7 – 10 and 17 – 20 are being withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected embodiments in Figs. 2A – 2F, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/09/2006.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Objections***

Regarding claim 1 and depending claims, the language between the preamble and portions of the body of the claim are inconsistent. For example, the preamble of

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claim 1 sets forth the subcombination "deck bracket"; however, lines 4, 25, 27, and 31 of the claim recite a "composite support member" which sets forth a positive relationship between the deck bracket and the support member and thus appears to claim a combination.

Furthermore, line 26 in claim 1 recites, "said solid bar being inserted through a first hole in said building" which sets forth a positive relationship between the bracket and the building and thus claims a combination. Similarly, line 34 in claim 1 recites, "said deck bracket extends from an interior of said building" which sets forth a positive relationship between the bracket and the building and thus claims a combination

Furthermore, line 36 of the claim recites, "side of L shaped bracket holding deck rim joist support members" which sets forth a positive relationship between the bracket and the support members and thus appears to claim a combination.

For purposes of examination, claim 1 is being treated as a combination.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Lines 24 and 25 of claims 6 and 16 disclose a sheath "positioned about and fixedly attached to said floor joist member." However, lines 24 and 25 of claims 1 and 11 disclose the same sheath "being positioned about and fixedly attached to said composite member." As claims 6 and 16 are dependent upon claims 1 and 11, respectively, one of ordinary skill in the art is not enabled to make the invention where one sheath is positioned about two members. The sheath, as given in lines 18 and 19 of claims 1 and 11, is not physically enabled to be positioned about two different members.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 - 15 are drawn to a method of attaching a deck to a building, but no steps are cited. Method steps should be in the form: "providing", "fixing", "aligning", and "attaching", for example.

#### ***Allowable Subject Matter***

If the objections given above are corrected, claims 1 – 5 are allowable.

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The following is an examiner's statement of reasons for allowance: the claims were examined as a combination between the deck bracket, composite support member, building, and deck rim joist supports and as such no art could be found to read on the given combination. Although art does exist for deck brackets, no art was found using a bracket comprising the particular combination of a solid bar, an L shaped bracket, a sheath, and a mounting support member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter M. Dreidame whose telephone number is (571)272-5177. The examiner can normally be reached on Monday - Friday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571)272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HD



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